

REMARKS / ARGUMENTS

Claims 1-30 stand rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,923,663, issued to Bontemps et al. (hereinafter, Bontemps). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 102

I. Bontemps does not anticipate independent claims 1, 11 and 21

The Applicant now turns to the rejection of independent claims 1, 11 and 21 under 35 U.S.C. 102(b) as being anticipated by Bontemps. With regard to the anticipation rejections under 102(b), MPEP §2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See id. (internal citation omitted).

A. Rejection of Independent Claim 1 under 35 U.S.C. § 102 (b)

With regard to the rejection of independent claim 1 under 35 U.S.C.

§102(b), the Applicant maintains that Bontemps does not disclose or suggest at least the limitation of “determining any one usable media pair from all existing media pairs”, as recited by the Applicant in independent claim 1.

The Office Action states that the above claim limitation is anticipated by Bontemps, FIG. 3, column 12, lines 35-38, and column 3, lines 44-46. Bontemps Column 12, lines 35-38 state:

FIG. 3 is a schematic diagram of a port circuit 300 for implementing each port of an Ethernet 100Base-T4 configuration, where the port circuit 300 replaces the comparable port circuitry of each of the ports 202 of the automatic media detection circuit 200.

and column 3, lines 44-46 state:

A media detection system according to the present invention detects an external device coupled to a port of a network device and establishes a working communicating link.

The Office Action states that “the Ethernet 100base-T4 configuration, of a[n] automatic media detection circuit . . . working communication link reads on usable media pair).”

The Applicant respectfully disagrees. Column 3, lines 44-46 state “detects an external device,” and not “determining any one useable media pair” as stated by the Applicant. Furthermore, the Applicant notes that column 12, lines 35-38 and column 3, lines 44-46 do not state or support “determining **any one** usable media pair **from all** existing media pairs.” In addition, “media pair” as recited by the Applicant is not stated or implied in column 3, lines 44-46 or column 12, lines 35-38.

The Applicant maintains that Bontemps does not anticipate the claim limitation “selecting any one channel from all existing channels,” as recited by the Applicant in claim 1. The Office Action refers to Bontemps FIG. 3 and states that “contact pairs 314 to contact pairs 312, signal pairs 322a-d” anticipates the Applicant’s “selecting any one channel.” The Applicant acknowledges that elements 314a-d, 312a-d, and 322a-d are depicted in FIG. 3. However, the mere listing of a few depicted elements of Bontemps FIG. 3, notably elements that are not claimed by the Applicant, does not anticipate the Applicant’s claim limitation “selecting any one channel.”

The Office Action further states that Bontemps FIG. 3, “different channels from 314 to 312” anticipates the Applicant’s claim limitation “[selecting any one channel] from all existing channels.” The Applicant respectfully disagrees. Assuming, *arguendo*, that contact pairs 314 as depicted in FIG. 3 represent channels (which the Applicant contests), it can be seen from FIG. 3, that any depicted contact pair 312 may only switch between two contact pairs 314, and not between all the four depicted contact pairs 314a-d. Therefore, Bontemps FIG. 3 cannot depict “selecting any one channel from **all** existing channels.”

The Applicant also notes, that the Office Action mistakenly cites part of a claim limitation that does not exist in the Applicant’s claim 1, namely “said selected any one channel being different”

The Applicant maintains that Bontemps does not anticipate the Applicant’s

claim limitation “assigning said selected any one channel to said any one media pair”, as recited in claim 1. The Office Action refers to Bontemps, column 13, lines 30-36 in support, and states “the logic state machine (figure 4), is provided for each of the ports, a link detect signal asserts a xover_selx signal, which reads on the when the channels are assigned to the media pair, (working communication link)” in support. Bontemps column 13, lines 30-36 state:

Referring now to FIG. 4, a schematic diagram is shown of a discrete embodiment of the mode control circuit 222. A logic state machine 400 is provided for each of the ports PORT1, PORT2, PORT3, . . . , PORTN, where each state machine 400 receives the CLK and SAMPLE clock signals and a corresponding LINK_DETECTx signal, and asserts a corresponding XOVER_SELx signal as previously described.

Initially, the Applicant notes that Bontemps column 13, lines 30-36 does not state any part of “assigning said selected any one channel,” or “to said any one media pair.” Correspondingly, the Applicant fails to see how any part of the above limitation can be anticipated by Bontemps column 13, lines 30-36.

Specifically, the Office Actions statement that “the logic state machine (figure 4), is provided for each of the ports, a link detect signal asserts a xover_selx signal” (as cited from Bontemps, column 13, lines 30-36) reads on “when the channels are assigned to the media pair, (working communication link),” is entirely without support or justification in Bontemps, column 13, lines 30-36. The Applicant respectfully requests a more elaborate explanation of this point.

Hence, the Applicant respectfully submits that the rejection of claim 1 based

on 35 U.S.C. §102(b) be withdrawn and claim 1 made allowable.

B. Rejection of Independent Claims 11 and 21

Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1, 11 and 21.

C. Rejection of Dependent Claims 2-10, 12-20, 22-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Bontemps has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20 and 22-30 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

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CONCLUSION

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Attorney at (312) 775-8105.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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